

*Corrupting Care and Fracturing Families: U.S. government treatment
of children seeking immigration relief*

Katherine Ratzan Peeler

Advisor: Arthur Kleinman

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Graduate School of Arts and Sciences
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CHAPTER 1

INTRODUCTION

December 1891

On New Year's Eve of 1891, the S.S. Nevada slowly made its way into New York's harbor. This marked a particularly special voyage, as its passengers were to be the first group of immigrants to arrive for opening day of the newly minted immigration station at Ellis Island. The following day, Annie Moore, a "15" year old (really 17, having lied about her age for a variety of reasons) from Ireland was the first in line to come off the boat and enter Ellis Island's facility. She, along with her two brothers, were unaccompanied and coming to the United States to meet their parents and other siblings who had already made a life in New York three years earlier. Purportedly, officials greeted her with a ten-dollar gold coin to celebrate the occasion (Green 2010; Raja 2014).

October 2018

A 28-year-old Honduran woman, Gloria, sits in a chair in a small room off the main gathering area of a large office trailer in Dilley, Texas. Her son, Daniel, 7 years old, is sitting quietly in a corner of the room drawing in the dust on the floor. I sit across a small desk from Gloria, speaking to her through a volunteer interpreter who is calling via speakerphone from somewhere in Missouri. Together, we are in the South Texas Family Residential Center – more commonly known as the Dilley family detention center. Both Gloria and Daniel are involuntary detained, having entered the U.S. without proper documentation in their attempt to seek asylum.

Upon arrival to the U.S., they were separated without warning by government officials, Gloria sent to a detention facility in Arizona, and Daniel sent to a facility in New Jersey. During the first few weeks of their separation, neither knew the whereabouts of the other, nor did they have the ability to communicate. More than two months later, they were reunited in Dilley. I had been asked by a group of pro bono attorneys to come to Dilley as a volunteer expert witness to interview and examine Gloria. The attorneys asked that I assess Gloria for possible mental health effects related to the U.S. government family separation policy and how those psychological sequelae may have affected her ability to pursue her asylum claim. We will return to Gloria and Daniel, their history, and my assessment in due course.

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Immigration, its discontents, and less often its joys, dominate news cycles and conversations around the globe. *Crisis, humanitarian emergency, disaster, atrocity, and surge* are commonly invoked descriptors of immigration-related events, patterns, and goings-on. While these words are not hyperbole for the individuals affected, such language obscures the forest for the trees, leading to soundbite solutions that are neither helpful nor remembered in America's frequent "immigration amnesia" (Dickerson 2021). In the U.S., most attention has focused on the Mexico-U.S. border, and as one reporter recently wrote, what is happening at the border "is more accurately called a continuum" (Garcia 2021) because the ebbs and flows of migration, including that of children, into the U.S. are cyclical with multifactorial etiologies (Heidbrink 2014; Kandel et al 2014).

There is no straight-forward answer to explain why two children seeking a better life in the United States were offered such drastically different welcomes more than a century apart: Annie Moore a ten-dollar gold coin, and Daniel an effective kidnapping by the very government from whom he was seeking help. To begin to understand their differing experiences, one must contextualize each child's life at the time, the political, economic, and familial reasons that led them to migrate, and the outsized influence of racism and xenophobia in the U.S.'s immigration policies, then and now. Given the enormity and complexity of those topics, this thesis focuses its examination on recent U.S. government immigration policies and structures that directly seek to impact relief-seeking children – either children as part of families, or children arriving to the U.S. unaccompanied.

Superficially, such policies fall into one of two categories: those aimed at protecting the health, safety, and development of children, and those aimed at deterring children (primarily as part of families) from immigrating at all. However, a deeper analysis reveals that many of the policies in place regarding relief-seeking children fundamentally harm children. Some policies, like that of the Trump Administration's Zero Tolerance program that included the notorious family separation policy, do not try to hide their harms. Others, however, reflect Ramsay's concept of "benevolent cruelty," in which the state assumes the role of child protector, acting vis-a-vis Foucault's moralistic pastoral power, to "care" for those in its charge, in a way that is ultimately physically and mentally painful to those charges (Foucault 2007; Ramsay 2017). Furthermore, the constant barrage of dehumanizing immigration policies and rhetoric, clash of priorities and orders, and lack of understanding of the real local moral worlds of asylum-seeking children too often lead to a denial of their personhood, and with it, the ability of those tasked as their guardians to really care for them.

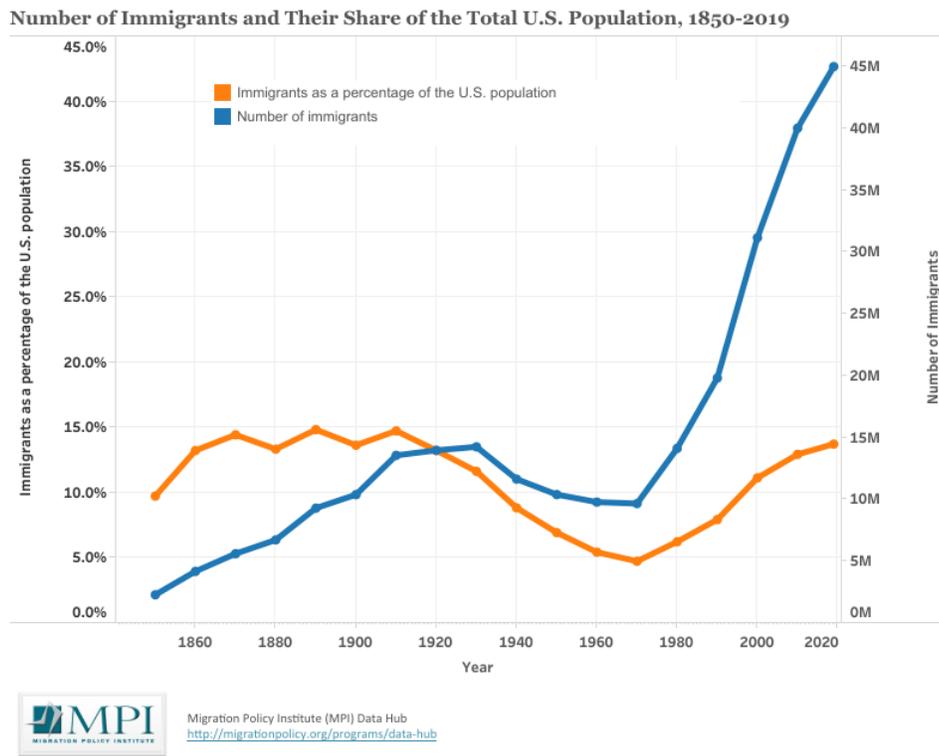
Corrupting care and fracturing families attempts to contextualize recent U.S. child-specific immigration policies in the broader near recent history of U.S. immigration policies as they pertain to relief-seeking immigrants. Chapter 2 describes the historical landscape of these policies and structures. In chapter 3, I show that in corrupting the meaning of care, and the ability of caregivers to provide care, these policies serve to maintain the non-personhood and generally liminal status of relief-seeking children in the U.S. such that the very opportunity and potential they sought in the U.S. becomes almost impossible. We ultimately return to Gloria and Daniel in the fourth chapter, dive deeper into the circumstances, global and local, that lead to their decision to seek asylum and travel north to the U.S. and explore the roots, rationale, and ramifications of family separation policy they experienced. Through an analysis of how the U.S. has approached its relationship with relief-seeking immigrant children, it becomes clear that the root of state-driven harms lies in the government's refusal to view these children through the lens of a common humanity.

CHAPTER 2

BACKGROUND

Currently, there are approximately 45 million immigrants living in the United States, accounting for 13.7% of the U.S. population. While the absolute number of immigrants arriving into the United States has increased dramatically since the 1850s, particularly skyrocketing since the 1970s, the percentage of the U.S. population accounted for by immigrants has increased at a much slower rate and is consistent with rates previously seen in the late 19th and early 20th centuries (Figure 1) (Migration Policy Institute 2021; Zong, Batalova, and Hallock 2018).

Figure 1. Number of Immigrants and their Share of the U.S. Total Population, 1850-2019 (MPI 2021) – Reprinted with permission.



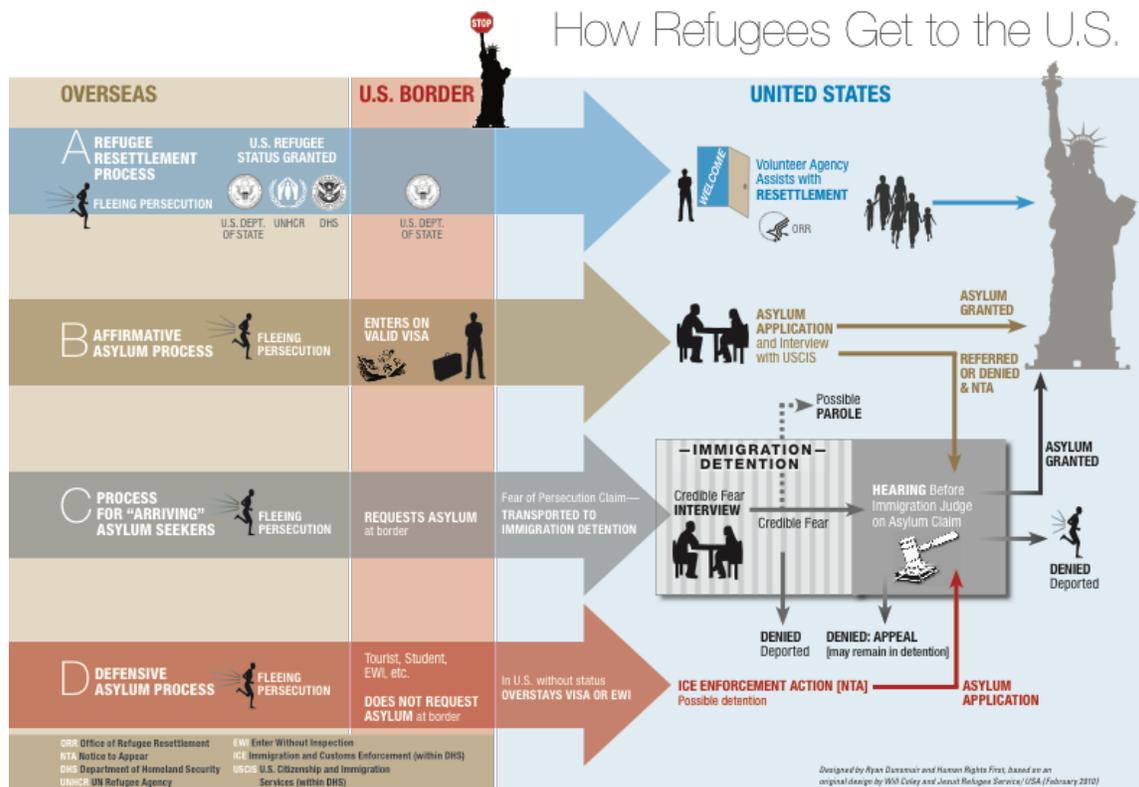
The age-sex distribution of immigrants often appears diamond-shaped with most immigrants falling into the 20-54-year-old age range. This reflects the fact that many people who migrate are seeking work, among other protections and potential benefits of living in the United States. Historically and currently, while the sheer numbers are high, the percentage of foreign-born immigrants 19 years old or younger is quite low. In 1970, this group comprised 11.6% (or 1.1 million) of all immigrants, and in 2016, they accounted for 7.6% (or 3.3 million) of all immigrants (MPI 2017). To emphasize the fact further, only 12% of children in immigrant families in the U.S. in 2019 were foreign-born with the other 88% born in the U.S. after the family immigrated (MPI 2021).

Asylum-seekers and refugees

Narrowing the gaze further, there exists the smaller group of immigrants in the U.S. who are asylum-seekers and refugees. To seek asylum in the U.S., one must have “suffered persecution, or fear they will suffer persecution due to race, religion, nationality, membership in a particular social group, or political opinion” (USCIS 2021a). An asylum-seeker has no official legal immigration status prior to entering the United States. They can request asylum either at the border (affirmatively) or after they have entered the country (defensively, usually as part of deportation proceedings). As exhibited in Figure 2, it is a long and complicated process to both seek and gain asylum in the U.S., and ultimately, the vast majority of those who apply are denied.

In contrast, refugees are persons who have legal status *as a refugee* prior to entering the U.S. based on similar persecution or fears of persecution. Given their permanent legal status, they are afforded many more rights and resources up front unavailable to asylum-seekers until, and if/when, the latter are granted asylum or some other legal relief. While it is most common to speak of “asylum-seekers,” there are multiple other forms of immigration-related “relief” people may seek, often with fewer benefits than if one is granted asylum. Other forms of relief (i.e. to be shielded from deportation), however, are largely beyond the scope of this paper. One particular form of relief available to some children – Special Immigrant Juvenile Status – will be explored in Chapter 3.

Figure 2. How Refugees Get to the U.S. (UNHCR 2010)



In 2019 the United States admitted 29,916 refugees, mostly from the Democratic Republic of Congo, Ukraine, and Burma, and granted asylum to 46,508 individuals hailing primarily from China, Venezuela, and El Salvador. Of the refugees, 12,909 (or 43% of the total) were under 18 years old, and of the affirmatively-granted asylum-seekers, 6,119 were minors (Baugh 2020). Information about age of persons granted asylum defensively are not publicly available, in keeping with the recurrent difficulty of obtaining accurate immigration statistics, particularly on children (Bhabha and Schmidt 2006).

Those numbers tell of the people who have been actually granted legal relief as a refugee or asylee in the U.S. But what of those who *try*, be it legally or illegally, to enter the U.S. seeking asylum? As aforementioned, in 2019 approximately 46,000 persons were granted asylum in the U.S. But that is of the 307,704 who applied – one third affirmatively and the remainder defensively. Additionally, the countries of origin that ultimately receive the greatest number of positive asylum decisions are not those with the largest number of people applying. With regards to children, particularly those arriving alone, the numbers are harder to pin down. It is ultimately this group – children arriving without legal immigration status – on whom I will focus.

In 2014, countless news stories told of unaccompanied alien children (UAC) attempting to make their way to the U.S. across the southern border, mostly as a result of gang violence in Central America. That year, 68,541 UAC were apprehended by Customs and Border Protection (CBP), and in fiscal year 2015, another 39,970 were similarly apprehended (Southwest 2015). The most recent available numbers show 76,020 UAC apprehended by CBP in fiscal year 2019, more than a 50% increase from the year prior (USCBP 2019). This number does not include those arriving as part of families, of which the number is even higher. Who are these unaccompanied children, and what happens to them when they arrive at the U.S.-Mexico border?

Unaccompanied immigrant children

In her role as inaugurator of Ellis Island and a child arriving unaccompanied, Annie Moore represented one of the first examples of the attention that America has paid to child immigrants, although it was not until almost two decades after her arrival that the U.S. codified its first definition and procedures for handling unaccompanied immigrant children. The Immigration Act of 1907 specifically addressed the fate of unaccompanied children under the age of 16. As stated in the Act:

All children under 16 unaccompanied by either parent, neither parent being in the United States, shall be held for special inquiry. The board shall exclude them as a matter of course unless it finds (1) that they are strong and healthy, (2) that while abroad they have not been the objects of public charity, (3) that they are going to close relatives who are able and willing to support and properly care for them, (4) that it is the intention of such relatives to send them to school until they are 16, and (5) that they will not be put at work unsuited to their years. Where the board finds these facts to exist it will so report orally or in writing to the officer in charge and defer final action until such officer has personally inspected the child. If, in his judgment, the child should be admitted, he shall so state to the board (this fact being entered of record), which may thereupon admit. Where, in the opinion of such officer, the child is not clearly admissible, the board shall exclude and give the usual notice of the right of appeal. If thereafter an appeal be filed, the case shall be forwarded with the recommendation either for (a) admission outright, (b) admission on bond, or (c) exclusion (INA 1907).

In sum, unaccompanied children were not turned away outright but did have strict bars for entry. Annie Moore, would not have been considered truly unaccompanied, importantly given that her parents were in the U.S. awaiting her arrival. Given the review unaccompanied children would undergo to determine their eligibility, a detention system was set in place for such children as they awaited their fates. In the language of the original act, one already sees the historical roots for the U.S.'s ambivalent approach to caring for children: the procedures ensured that all unaccompanied children be screened for a safe environment (to provide them with an education and not force them into labor) but also that such children be "strong and healthy" and "not objects of public charity." Clearly, not all children were worthy of care. Since that time, U.S. policies toward immigrant children, either entering as unaccompanied minors, legally as part of families or illegally as part of families, have generally been unhelpful, unwelcoming, and worst of all detrimental to the safety and well-being of those children.

Present day definitions are less overt in their bias. An unaccompanied alien child (a term I do not like but is nevertheless our government's official nomenclature for such an individual) is a child who lacks lawful immigration status in the United States, is under the age of 18, and is either without a parent or legal guardian in the United States, or without a parent or legal guardian in the United States who is available to provide care and physical custody. This definition implies two potential etiologies of being unaccompanied: 1) a child arrives by himself to the U.S. border or is caught by himself shortly after crossing the border or 2) the child arrives with an adult whom the U.S. government deems inappropriate to be the child's guardian and thus takes the child into government custody (for example because the adult cannot prove s/he is the

child's legal guardian, the government is worried the child is being trafficked or is otherwise unsafe, or the government is employing a family separation policy).

Since 2014, the percentage of children and adolescents arriving at the U.S. southern border specifically from Central America's Northern Triangle – Honduras, El Salvador, and Guatemala – has contributed to an enormous increase in the number of children apprehended by U.S. Border Patrol in that region (USCBP 2018). Over the 5-year period from 2012 to 2017, the number of affirmative applications from those three countries increased by greater than 800%. Unaccompanied children filed more than half of those applications (Mossad 2019).

Traumas: past and present

A 2019 report by Physicians for Human Rights described the background and experiences of 183 asylum-seeking children who had physical and psychological forensic evaluations performed in support of their asylum cases. Most of these children had suffered direct physical violence, threats of violence or death, and witnessed acts of violence in their home countries. Additionally, almost 20% reported surviving sexual violence (Figure 2) (Ackerman et al 2019).

Figure 3. Types of Violence Experienced by Children Seeking Asylum in the United States

(Ackerman et al 2019) – Reprinted with permission.

Types of Violence Experienced by Children Seeking Asylum in the United States



Source: Data from 183 children evaluated by Physicians for Human Rights Asylum Network experts between 2014 and 2018.

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Children who leave their homes in Central America to seek asylum in the United States have often grown up in poverty—sometimes extreme poverty, frequently ceasing to attend school at a relatively young age in order to work to help support their families. Some grow up in the care of their extended families, barely remembering their long-since departed parents (Grande 2012; Nazario 2006). These parents have left with the primary intention of making money in *el norte* to secure a better future for their children. But to their children, they are the confusing, twisted image of someone who loves them dearly but abandoned them.

In addition to the everyday trauma of poverty and the structural violence it imparts as food insecurity, poor health, and lack of consistent access to education, children seeking asylum may also have experienced myriad other forms of abuse, including but not at all limited to,

watching and experiencing domestic and sexual violence at home or being physically assaulted or having one's life threatened secondary to refusal to join a gang.

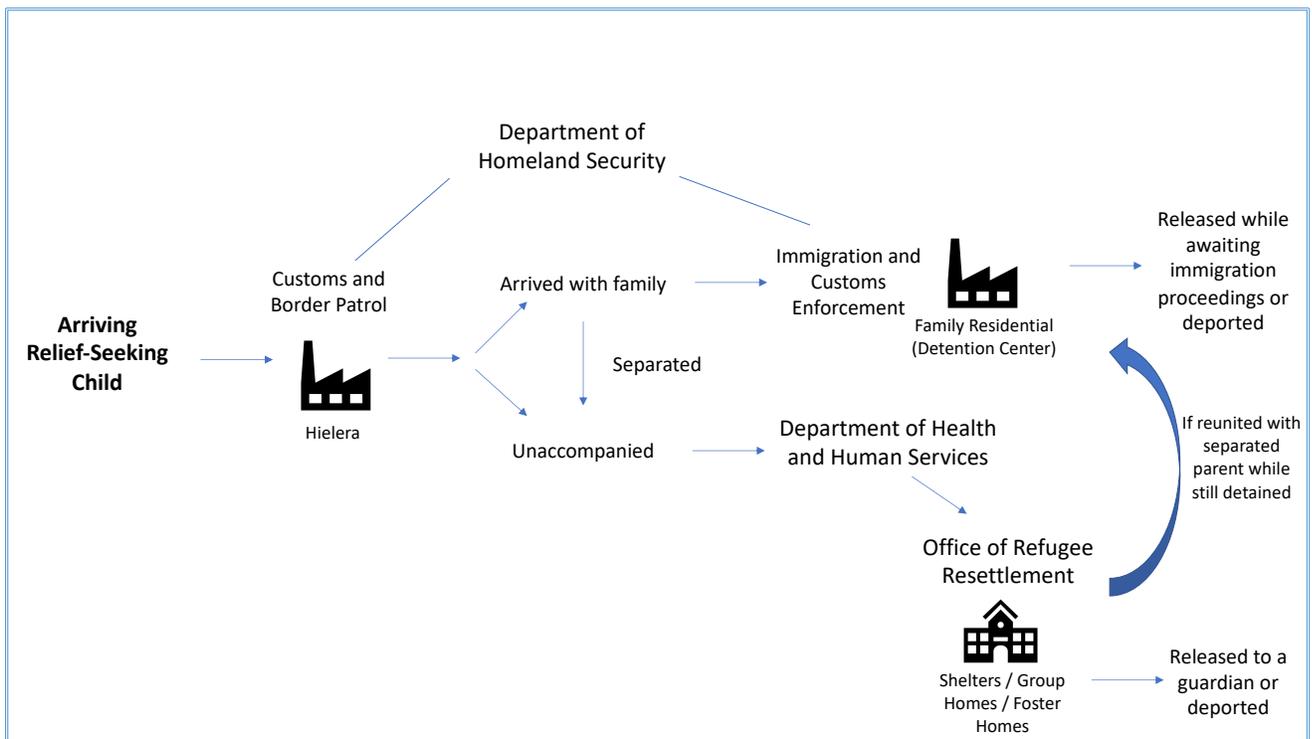
The risk of assault or death does not end once an individual has begun her migration to the U.S. Children from Central and South America who make their way to the U.S. lack adequate food and water. Those who pay smugglers, or “coyotes,” to assist them in their transit are often at the mercy of these individuals. Whether they have paid someone or not to assist them in their transit from their home countries through Mexico to the U.S., accounts of abuse and trauma are rampant (De León 2015; Terrio 2015; Vogt 2018). Many girls and women experience sexual assault while in transit, often by the very individuals who were paid to ensure their safe journey to the U.S. (MSF 2017).

Destinations

When immigrant children arrive at the U.S. border without valid entry documents such as a passport, visa, official refugee status, etc., several possible destinations await them (Figure 4). If they affirmatively present themselves or are caught at the border, they undergo routine processing to by U.S. Customs and Border Patrol (CBP) (under the Department of Homeland Security) in a temporary holding facility, frequently referred to as an *hielera*, given their notoriously cold temperatures. Children deemed unaccompanied are then transferred and become the custodial wards of the Office of Refugee Resettlement (ORR) under the Department of Health and Human Services (DHHS) and are sent to one of many ORR shelter facilities across the U.S. Those who present with family members are processed as a unit by CBP and move to a federal family residential (i.e. detention) center run by Immigration and Customs Enforcement

(ICE), also part of the Department of Homeland Security (DHS). That is, unless the government separates them, in which case the children are deemed unaccompanied (as happened to Daniel) and placed into ORR custody, often hundreds to thousands of miles away from their detained family members. Lastly, a child may cross the border, never getting caught by immigration authorities, and possibly reunite with family already in the U.S., joining the ranks of the “undocumented.” Of course, other destinies may await them if they are trafficked or held for ransom by coyotes either prior to entering the U.S. or upon arrival.

Figure 4. Possible Paths of an Arriving Asylum-Seeking Child in the U.S.



For those children who cross the border and end up in government custody, whether as unaccompanied children under the care of ORR, or as part of families under the care of ICE,

there are regulations stipulating the minimum (and desired) care they receive as outlined by the Flores Settlement Agreement.

The Flores Settlement Agreement

The guidelines relating to how children are to be treated when in U.S. government custody stem from the case of Jenny Lisette Flores, a 15-year-old girl from El Salvador who attempted to join her aunt in the United States in 1985. Instead of joining her aunt, Jenny was apprehended by the (then) Immigration and Naturalization Service (INS), strip-searched and detained in a juvenile detention facility where bathrooms and sleeping facilities were sometimes shared with adults of both genders. INS would not release Jenny to her aunt as she was a “third-party adult.” The case ultimately went to the Supreme Court who ruled that the arrangements were ‘legal custody’ and not ‘detention’ as the facilities where immigrant children were detained were not correctional institutions, but facilities that meet state licensing requirements for the provision of shelter care, foster care, group care, and related services to dependent children. The case was remanded to the district court, but a settlement was reached and approved by a California federal court in 1997 (FSA 1997).

The Flores Settlement Agreement laid out requirements that juveniles be held in the least restrictive facilities possible with amenities to fit their age-specific needs, and it widened the scope of adult parties to which a minor could be released. Importantly, it also stated that immigration authorities could not detain a juvenile for greater than 72 hours in secure facilities with rare exception. With the 2014 surge of UAC, these guidelines essentially went by the wayside, and child advocates have been in an uphill battle ever since.

Mandatory detention

In 1996, Congress passed the Illegal Immigration Reform and Immigrant Responsibility Act, which among other things, mandated detention for asylum-seekers, regardless of security or flight risk (Kerwin 2018). This set the environment for the building and managing of detention facilities to house the thousands of asylum-seekers arriving at the borders. Five years later, a former nursing home in Leesport, Pennsylvania was converted to the nation's first family detention center, the Berks Family Residential Center. The 85 beds at Berks (recently at least temporarily emptied during the COVID-19 pandemic) slept parents and their children, even as young as nursing infants. Even with its first center, the INS began the process of sometimes separating mothers from their children.

As family detention and separation of parents and children continued, various committees in Congress sought to promote alternatives to detention as means of keeping families out of detention centers but still with government oversight through the use of ankle bracelets, check-ins, etc. (Lee 2005). At the same time, the T. Don Hutto Family Residential Facility (a former medium security prison) in Tyler, Texas opened as a 600-bed family detention center run by the for-profit private prison company Corrections Corporation of America. The following year, in 2007, the Women's Refugee Commission and Lutheran Immigration and Refugee Service toured both Berks and Hutto and described the prison-like facilities as detrimental to the development of children (WRC 2007). Despite lawsuits and the subsequent "Hutto Agreement" to improve the conditions for children in family detention centers, these conditions were continually breached, and in August 2009, the Obama Administration ordered the closure of Hutto and the release of all families therein (USDC 2007; USDC 2008).

As aforementioned, 2014 marked another turning point in the fate of immigrant children seeking refuge in the United States. On June 2, 2014, the White House officially declared the enormous influx of children a humanitarian crisis. This “surge” led the Obama Administration to greatly increase the use of family detention centers to hold parents and their children while awaiting their status proceedings, as evidenced by another family detention center opening just a few weeks later in Artesia, New Mexico, and then two months after that, another one in Karnes, Texas (Chan and Obser 2015).

Since that time, other similar facilities have opened, and numerous reports have been published documenting the inappropriate treatment of families and children. Conditions at these centers include cement floor sleep spaces, open toilets, constant light exposure, cold temperatures, and insufficient food and water (Cantor 2015; LIRS 2015). In response, the American Academy of Pediatrics released a policy statement stating that “the Department of Homeland Security facilities do not meet the basic standards for the care of children in residential settings,” and as such there should be “limited exposure of any child to current Department of Homeland Security facilities...and [there must be] longitudinal evaluation of the health consequences of detention of immigrant children in the United States” (Linton, Griffin and Shapiro 2017, 7-8).

Given the complicated web of policies, detention facilities, regulations, and government actors noted here, it is no surprise that it is neither straight-forward nor easy to care for children arriving across our southern border. In the next chapter, we will explore how this system’s design corrupts care at all levels.

CHAPTER 3

CORRUPTING CARE

His grandma made the best pupusas, the counselor wrote next to

Stick-Figure Abuelita

(I'd colored her puffy hair black with a pen)

Earlier, Dad in his truck: "always look gringos in the eyes."

Mom: "never tell them everything, but smile, always smile."

A handful of times I've opened the book to see running past cacti

from helicopters, running inside detention cells.

Next to what might be yucca plants or a dried creek:

Javier saw a dead coyote animal, which stank and had flies over it.

I keep this book in an old shoebox underneath the bed. She asked in Spanish, I

just smiled, didn't tell her, *no animal, I knew that man.*

- Javier Zamora (Zamora 2017)

Children, particularly children on the move, are quintessentially liminal. This liminality, as described by Carrasco, represents a "subjunctive 'could be' way of being" where one is constantly in a state of "potentiality and unfinished realities" (Carrasco 2020). A state of

potentiality allows for one to continually grow, expand, and learn. But a constant state of such ambiguity can lead to an ungroundedness.

Pedro Morales, a theologian who grew up in Ciudad Juárez and now lives in the U.S., paints a picture of children living in his hometown whose only thoughts were how one would survive the next 24 hours. He described it as “almost laughable” to ask a child “What do you want to be when you grow up?” for that sense of future has no bearing on their everyday realities (Morales 2020). The paradox then that must be reconciled when understanding relief-seeking immigrating children is the definitive state that is childhood – where children experience the world in an individualized way and exert agency in their daily lives – with the liminal nature that is their rite of literal passage – passage from their home countries through Mexico, across the Mexico-U.S. border and through the byzantine U.S. immigration system, passage from their communities of family and friends to one where they know no one and do not understand the local language, passage through various developmental stages of childhood, and so on. As Scheper-Hughes and Sargent write about anthropology’s approach to childhood, “childhood is perceived as a permanent state of becoming rather than as a legitimate state of being-in-and-for-the-world...[there is] a failure to view childhood as *sui generis* and apart from the child’s relationship to adult society and norms,” and instead they have found that “everywhere children are actively involved in the construction of their lives and their worlds” (Scheper-Hughes and Sargent 1998, 13-15). Morales was not implying that the children of Juárez do not have a future, nor that they do not know how to think about the future. They understand, rather, that in the context of the realities of surviving everyday life on the streets *as children*, the future is five minutes from now or later this evening. Their future is being actively experienced.

When analyzing U.S. immigration policies as they pertain to children then, one must both start to reflect upon what such policies say about how children experience and interpret these policies and what these policies imply with regards to what the state feels is the social value of relief-seeking immigrant children.

Three policies

Three recent U.S. immigration policies have directly affected relief-seeking children. The first was the aforementioned family separation policy, a “prevention through deterrence” policy officially enacted in 2017 under the Trump Administration, which will be the focus of chapter 4. Through this policy, children arriving with family members were forcibly separated from their parents, taken into ORR custody, and shipped to destinations all over the country. Little to no information was given about each other’s whereabouts for weeks to months. As I witnessed first-hand in interviews of recently reunited mothers and their children, and as confirmed by a recent study of separated families by Physicians for Human Rights, the long-lasting mental health effects of such government-led kidnappings were obvious: post-traumatic stress disorder, anxiety, depression, and a general sense of fear that one’s child could be taken again at any time (Habbach, Hampton, and Mishori 2020).

The feelings from the perspective of the children were mutual. One child stated “I missed my father. I had no idea whether he was alive or not” (Habbach, Hampton, and Mishori 2020). In a book that compiled the testimonies of children detained at the U.S. southern border similar themes from separated children emerged:

“The immigration agents separated me from my father right away.”

“They took us away from our grandmother and now we are all alone.”

“After they separated us, I was taken to a detention center. There were many children there, perhaps about 200 to 300 kids. We are kept in a cage. It is very crowded. There is no room to move without stepping over others. There’s not even enough room for the baby to crawl.”

“I’m so hungry that I’ve woken up in the middle of the night with hunger. Sometimes at 4am. We do not know what would happen if we asked for more food. We are too scared to ask.”

“None of the adults take care of us so we try to take care of each other. There was an eight-year-old trying to take care of a little four-year-old girl. She did not know how to take care of a little girl so she kept asking me what to do. I am holding both little girls in my lap to try to comfort them. I need comfort, too. I am bigger than they are, but I am a child, too.” (Binford 2021).

The second policy the U.S. administration put into place that continues to cause direct harm to children, despite its recent suspension, is the Migrant Protection Protocols (MPP) (USDHS 2019). MPP severely limited the number of individuals allowed to cross into the U.S. to request asylum on any given day, thus requiring individuals to wait in Mexico (or “remain in Mexico”) for their initial U.S. entry screening. Despite President Biden suspending MPP during his first week in office, MPP has become a reality with no end due to a third policy that also affects relief-seeking children.

In March of 2020, at the beginning of the current COVID-19 pandemic, the Centers for Disease Control and Prevention (CDC) ordered the closing of all U.S. borders (with the exception of airports) only to non-citizens who lack documentation under Title 42 of the Public Health Service Act. The CDC lists as its primary rationale that this particular group (but not tourists arriving by plane) represents a high risk of contracting and spreading the new coronavirus given that they must be held in some form of congregate facility (i.e. detention center) during their initial days of processing (USDHHS and CDC 2020). The order has now been extended indefinitely despite growing public protests. The U.S. government has effectively halted our entire system of asylum.

As a result of MPP and Title 42, many child asylum-seekers live in crudely constructed tents cities in Mexico, within sight of the U.S. border. These individuals cannot be certain that they will ever be allowed to enter the U.S. and live an uncertain existence, liminality at its essence. They are easy prey for drug dealers, sex traffickers, and kidnappers and often face extreme danger as they await the chance to enter the U.S. Additionally, those children who already have physical and mental health issues do not have access to reliable medical or mental health care while living in these circumstances. Unaccompanied children are specifically protected by the bi-partisan Trafficking Victims Protection Act (TVPA), which requires the U.S. to allow them entry if they are at risk of trafficking (a risk directly increased by the circumstances created by MPP and Title 42). Most recently, under the Biden Administration, the combination of ending MPP, reinforcing TVPA, and continuing Title 42 has lead relief-seeking families on the border to make the heart-wrenching decision to have their children – often quite young – cross the border alone, effectively creating a surge of unnecessarily unaccompanied children.

The predominant theme behind these three policies is that of exclusion and unwelcome. As explicated by Jason De León, these policies all represent variations on the U.S. immigration mantra of prevention through deterrence, creating policies and structures that would be so unpleasant, dangerous, and complicated that people would hopefully decide not to come at all (De León 2019). Given this overarching focus on keeping immigrants, including children, from seeking relief in the U.S., it is no surprise that those who are tasked with caring for children in government custody are not effectively able to do so.

Dual loyalties

Dual loyalty is a common problem for professionals whose actions are dictated by a government, military or corporations. In these scenarios, the goals of the larger entity may conflict with the individual's professional mission or code of conduct. This is most visible in medicine. Examples abound including the psychiatrists at Guantanamo who participated in creation of methods to torture detainees (Risen 2015), first responders at the U.S. – Mexico border who pledge to care for all regardless of legal status but must comply with local immigration authorities' orders (Jusionyte 2018), and mental health practitioners in China who are part of the “psycho-politics” of the state whereby practitioners are pressured to “psychologize” mental illness – utilizing the idea of illness to “make sense of conditions and experiences that are distinctly social and cultural” (Yang 2017, 8).

The case of dual loyalty arises in the custody and care of undocumented children in several ways. Prior to policies changes, there was internal dual loyalty that manifested as a

conflict of interest when the same government office acted as prosecutor and protector of unaccompanied children (Terrio 2015). Government-contracted shelters frequently receive mandates that are completely at odds with each other, which when resolved, never serve in the best interest of the child. And immigration judges have a “legal mandate to exercise independent judgment, a mandate premised on the separation of the judiciary from the legislative and executive branches of government” (Terrio 2015, 163). But immigration court is part of the executive branch, and its judges report to the U.S. attorney, the same person who instructs government attorneys to prosecute and deport undocumented immigrants.

Taken as a whole, these mentalities, actions, and regulations create a state of constant contradictions. How is one to care for these children, and how are the children to develop and grow, let alone successfully to navigate their road to legal status, in a system so fraught with diametrically opposed actors and mandates? One example as described in Susan Terrio’s book “Whose Child Am I?” is particularly illuminating.

One of the forms of legal relief a minor may be eligible for is called Special Immigrant Juvenile Status (SIJS). SIJS is unique from other forms of relief (like asylum, trafficking visas, etc.) in that it combines state child welfare and federal immigration agencies. It is designed for immigrant children who have suffered abuse by one or both parents and whose best interest precludes return to their home country and also precludes return to the abusive parent(s) (USCIS 2021b). Because it is rendered by two systems, there must be a dependency finding in domestic (state) juvenile or family court, and immigration court must terminate removal proceedings while approving legal permanent residency. The catch-22 comes in when state courts refuse to take jurisdiction over children when they are in federal custody, yet the Office of Refugee Resettlement (as a reminder, the agency in charge of housing and caring for UACs) will only

release children to approved sponsors, which given the history of abuse, usually cannot be family members. So children languish in federal custody, unable to pursue their SIJS option, eventually turn 18 years old, and are sent to adult detention with no further possibility of obtaining SIJS (Terrio 2015).

Terrio describes the scenario above for a particular 17-year-old boy named Javier who did end up receiving SIJS but only because of the incredible dedication and perseverance of his case manager, pro bono attorney, and his loving foster family. Both the state child welfare system and the federal custodial system cite their main goal as protecting the child, and Javier's case is not unique. Given how obvious the catch-22 is, the solution would be to create a streamlined system for children eligible for SIJS but currently living in federal custody. How is a person – especially a child – who does not know the country, its laws, and has no access to counsel, supposed to advocate for himself?

The child is not the only one let down in this situation. The case managers, shelter staff, few pro bono attorneys that exist, judges and foster families feel this tension all the time. While she does not cite statistics on burnout rates of shelter-staff and other related employees, one would imagine it is quite high. Terrio does report on the high rates of burnout among immigration judges who are both disempowered in their lack of contempt authority but also hold the fate of these children in their decisions. As she eloquently states “it is no small irony that the liminal status and weak structural position of immigration judges mirror the disempowerment of the very children whose cases they hear” (Terrio 2015, 167).

The lack of cohesive missions, checks and balances, and independent oversight combined with the bureaucratic, secretive, and often-arbitrary nature of resource allocation leads to a massive system of structural violence. Children are shuttled between facilities, stepped-up to

more secured (and more restrictive) settings for often minor infractions, and interact with numerous agencies, judges, and support staff. But most of the time, those caring for them – in the full sense of the word – have no background on these children. Their full medical, behavioral, and demographic records are not routinely shared between agencies or shelters, and judges frequently make decisions based on little information and with little time to ask clarifying questions. At best, this tangled mess leads to demoralization of both the children and their caretakers, and at worst it perpetuates perceptions of these children as “other.”

Care of “the other”

In “Caregiving as moral experience,” Kleinman notes that “acknowledgement of the personhood of sufferers and affirmation of their condition and struggle have long been recognized as the most basic and sustaining of moral acts...[in caregiving,] what is exchanged is the moral responsibility, emotional sensibility, and the social capital of the relationship” (Kleinman 2012, 1550-1). This reciprocal exchange and generosity in trying to understand another person in turn leads to an affirmation of our own humanity (Levinas 1988). Kleinman calls for a “serious discussion” about caregiving in medical practice and widens the lens for caregiving’s potential benefits in “humankind’s shared project.” But how do we think about care when there is no acknowledgement of personhood?

In *Whose Child Am I?*, Terrio describes the case of another child, Cecilia. Cecilia is a transgender adolescent young woman from Mexico. Cecilia was born a boy, but never felt at ease in her body as a child and was targeted for her effeminate behavior. She endured repeated acts of violence, including rape, shunning by her family and threats on her life prior to fleeing to

the United States. When applying for asylum, the cross-examining government attorney conflated her gender identity with her sexual identity. Additionally, he unsuccessfully tried to prove her lack of credibility by discrediting the possibility of a child being transgender in the first place. Terrio writes, “this approach is consistent with a dated developmental paradigm that views children as incomplete persons who are incapable of bearing witness, of formulating independent opinions, or adopting non-normative gender identities” (Terrio 2015, 187). Similar paradigms exist in other parts of the world such as China where newborn infants are thought of as not fully human in the process of/working toward becoming fully human. This idea leads that child’s society to raise her to become human and value humanity, but it also rationalizes infanticide (Kleinman 2019).

While viewing a child as innocent, in need of protection and not yet fully human often serves a protective function, it can be counterproductive when a given child does not fit that mold. Children and adolescents seen as disruptive become “adultified,” with malicious intent ascribed to their behaviors, and in the case of UACs “no longer considered deserving of special treatment or of asserting their right to protection through an asylum claim” (Terrio 2015, 189-190). Further, Terrio writes UACs “run the risk of being treated as aliens first and as children second” (Terrio 2015, 74).

“Alien” originates from the Latin word *alienus* or ‘belonging to another’ from *alius* ‘other,’ both which contain the proto-Indo-European root ‘-al’ meaning ‘beyond.’ Interestingly, the same root has a secondary meaning of ‘to grow, nourish’ (Online Etymology Dictionary n.d.). In continuing to use the word alien to describe immigrants seeking refuge in our country, we literally define them as ‘other.’ Classifying persons in this way strips them of their humanity, such that true caregiving is not possible (Khan 2017, Yang 2017). Terrio interviews many people

who clearly care for the children encountered at the border, housed in their facilities, and standing alone in their courtrooms. But their care becomes corrupted in the context of policies and rhetoric that serve to dehumanize children.

Children, neither recognized nor understood

It is easy to identify the negative physical, mental, and developmental consequences that family separation, MPP, Title 42, and detention in general have had on children. Those consequences are featured in the news, in congressional hearings, whistleblower reports and discussed in immigration advocacy forums across the country. Physically, children are known to be dehydrated, malnourished, lacking easy access to prompt and appropriate pediatric medical care, have high rates of communicable diseases, and have even died from preventable causes while in U.S. government custody (Allen and McPherson 2018; Moore 2020; Peeler 2019). And from a mental health perspective, we know the needs are high and the resources inadequate. A 2019 Office of Inspector General report “Care Provider Facilities Described Challenges Addressing Mental Health Needs of Children in HHS Custody” found multiple challenges with addressing the myriad mental health needs of children in ORR custody (OIG 2019). Primarily, caseloads were high, there were insufficient numbers of adequately trained mental health staff, there was a high rate of mental health staff attrition, and challenges existed accessing outside mental health experts and/or transferring children to specialized residential treatment centers when necessary.

These concrete biomedical consequences suffered by children are vitally important to recognize, quantify, and understand if we are to fix the broken system that is the U.S. immigration machine. More important to understand, however, is the philosophy behind how the U.S. government approaches immigration policy as it pertains to children. This philosophy leads to exclusionary and deterrent policies, placing children at higher risk of trafficking, malnutrition, infectious disease, anxiety, depression, and the like. Ultimately, I believe, it is about what the U.S. government – and those who elect it – believe about the “social value” of immigrant children (Scheper-Hughes and Sargent 1998). It has been clear from the beginning definition of unaccompanied children that children who have been “the objects of public charity,” are not valued, not worthy of care, and are thus not welcomed here. This sentiment continues today in the fraught public charge debates. Even when children and their families *are* eligible for public assistance in the form of healthcare, food stamps, housing allowances, etc., there have been misinformation campaigns to scare immigrants into believing that if they *do* try to access these services, they risk deportation or having their children taken away from them (Page et al 2020; Ferreira, Yoshikawa and Oberlander 2018).

What has also become clear is the U.S. government’s inability to reconcile the paradox of childhood. As Myra Bluebond-Langner and Jill Korbin write:

Children are at once developing beings, in possession of agency, and to varying degrees vulnerable. It has been a hallmark of anthropological work to recognize that these attributes manifest themselves in different times and places, and under particular social, political, economic, and moral circumstances and conditions. The coexistence of agency

and vulnerability [emphasis added] influences how we research with children and affects our ethical responsibilities both to children in our studies and to future children occupying the space of childhood. These obligations are particularly important because while we increasingly look at children as having agency, they nevertheless are among the most vulnerable members of society and have particular needs for nurturance (Bluebond-Langner and Korbin 2007).

The lack of social value placed on the lives of immigrating relief-seeking children is evident in the three policies outlined in this chapter. The “nurturance” theoretically provided by the government is impossible to provide given the contradicting catch-22 structures and mandates to be navigated by caregivers, and the agency that children need to exert is not allowed where they need it most (in their daily lives and decisions) and asked of them in situations inappropriate for their development stages and ages (trying to represent oneself in immigration court or care for oneself when inexplicably separated from one’s parent at the border). Reconciling the paradox that children are on the one hand vulnerable and liminal and on the other social agents in their own lives does not require viewing them only through one of those lenses. The opposite, in fact, is true. Reconciling the paradox ultimately means getting comfortable with the inherent changing and individualized needs of children and supporting the seemingly conflicting but actually complementary conditions of being a child. One must support who they are now *and* who they can become. Currently the U.S. government does neither of these things effectively, and one of the more striking examples of how they have harmed children is through its recent official family separation policy. And so, we return to Gloria and Daniel.

CHAPTER 4

FRACTURING FAMILIES

Gloria was born in San Pedro Sula, Honduras, in 1989. Her father was never in her life, and her childhood was marked by poverty. Given Gloria's mother's need to work long hours, Gloria and her brothers were instead raised by her maternal grandparents. Gloria enjoyed school greatly, completing her education through the 8th grade, then dropping out due to her family's inability to pay school fees, for school supplies, and due to their need for her to work. She was a healthy child and enjoyed her early childhood as influenced by her grandparents' kindnesses and generosity.

By 2011, Gloria had been with her current partner, Miguel, for several years, had moved in with him, and they had welcomed their first child, Daniel. Miguel had a flower business, which was doing well enough to support his young family, but with little room for extraneous expenses. As his business started to grow, he began to be harassed by local members of the transnational gang MS-13, demanding payments if he wanted his business – and his family – to be left alone. He made the payments, until the amounts demanded became so high he could no longer pay them in full. That was the fall of 2017. The MS-13 members told him that if he did not pay in full immediately, or if he went to the police, they would kill Gloria and Daniel. Gloria and Daniel went into hiding, knowing nowhere in Honduras was safe given the extent of spread and control MS-13 yielded throughout the country. They eventually journeyed to the U.S. in the spring of 2018 to seek asylum.

After weeks of traveling through Mexico, they crossed the Rio Grande via raft in June where they were immediately caught by U.S. immigration authorities in Arizona. Together, they

were shuttled to an *hielera* for processing. Within two days, they were separated. With no explanation or details given, border patrol agents acting on the orders of the U.S. government removed 7-year-old Daniel from his mother, and transferred him to a center run by ORR in New York. Despite arriving with his mother, Daniel was now an unaccompanied alien child in the custody of ORR.

Meanwhile, Gloria was transferred between multiple detention facilities run by U.S. Immigration and Customs Enforcement (ICE), and did not know the whereabouts of her son for 20 days. During that time, Gloria underwent her Credible Fear Interview (CFI), the interview performed by immigration authorities to assess whether or not a person seeking asylum has a credible fear of serious harm if returned to their home country. One must meet specific criteria to receive a “positive” CFI, and one must pass this interview to even be allowed to apply for asylum in the U.S. It was arguably the most important interview of Gloria’s life, the interview that would determine the future safety of her and her son, and she failed. She failed because she could not concentrate on the questions, responding to every question about her life in Honduras with a question of her own “Where is Daniel? Can I call Daniel? Is Daniel safe? When will I see my son again? Why was my son taken, and where is he?” I had been asked to evaluate Gloria’s mental health and comment specifically about the trauma of family separation and what impact that may have had on her mental state at the time of her CFI.

By the time I met Gloria, she and Daniel had been reunited for almost six weeks and were living together in the Dilley family detention center (also run by ICE). Gloria told me of her inability to sleep, inability to think about anything except how to find her son, and her general desperation in the face of no information and no means of helping Daniel during the 3 ½ months that they were separated. Specifically, she told me that she had seen a psychologist two months

earlier when she was at one of the other detention centers who felt that her symptoms were related to the acute stress of being separated from Daniel. The psychologist told Gloria that what she needed was not medication but rather reunification with her son.

After my evaluation, I wrote in my report that Gloria had symptoms “consistent with a current diagnosis of major depressive disorder” and while she did not “meet diagnostic criteria for post-traumatic stress disorder (PTSD), she [did] have several of the hallmark features including...” and that she had “developed significant emotional and behavioral symptoms in response to persecution from politically motivated gang violence, compounded by her recent forced separation from her son in the U.S.” I concluded that she could not have reasonably been expected to undergo an interview such as the CFI during a time of such heightened emotional stress.

Context

The confluence of events and actors that brought Gloria, Daniel, and me to the same dusty room in Dilley, Texas is complicated and long. But in brief, an extremely violent and prolonged civil war starting in the late 1970s and lasting more than a decade in El Salvador led more than a million Salvadoran refugees to seek safety and opportunity in other countries, including the United States. One reason the Salvadoran government was able to maintain power and lethal control over its population was secondary to the continued flow of funding from the U.S. government (Jenkins 2015). A large community of Salvadoran refugees settled in Los Angeles, California.

According to a report by the Center for Latin American and Latino Studies at American University in conjunction with InSight Crime, in the late 1970s, Salvadoran teens and young adults in L.A. gathered to “listen to rock music and smoke marijuana” forming a “clica”, eventually naming themselves the Mara Salvatrucha Stoners (MSS) (mara salvatrucha roughly translated to the savvy/street-smart group of Salvadorans) (CLALS and InSight Crime 2018). Membership blossomed as more Salvadorans fled the war, and eventually MSS operated more like a gang, protecting its neighborhood from other local gangs. As detailed in the report, killings and drug sales came to mark MSS, renamed MS-13, and when the U.S. increased deportations in the early to mid-1990s, particularly of formerly convicted individuals, MS-13 branches began showing up throughout El Salvador, Guatemala, and Honduras. The gang’s membership grew rapidly, its violent enforcement of their demands known to all, including the police who have been unwilling and unable to contain them. And hence Gloria and Miguel’s inability to live a quiet life without interference from MS-13.

The U.S. has spent the last several decades attempting to decrease the number of immigrants arriving to and staying in the U.S. The federal government has gone about this through two main means: deportations and making it harder (specifically, less desirable) to enter the country. As aforementioned, the rapid increase in deportations of formerly convicted individuals directly led to the spread of MS-13 gang activity throughout the Northern Triangle countries of Central America. It was during this time that various administrations began instituting “prevention through deterrence” policies (officially outlined in the then Immigration and Naturalization Service’s Strategic Plan) (USBP 1994), including using the natural environment to force immigrants to travel through the desert to cross the border, putting them at risk for severe dehydration, heat stroke, and death (De León 2015). While not a comprehensive

list of such policies, a few notables include Operation Streamline – a Bush administration policy implemented in 2005 that increased prosecutions for illegal border crossing, the gradual weaponizing of the border fence making it higher and sharper purposefully leading to further injuries when crossed, and the transition under the Obama administration from family residential centers to large family detention centers fashioned from former adult correctional facilities (Habbach, Hampton, and Mishori 2020; Jusionyte 2018).

Unique in its fervor for dismantling the U.S. immigration system was the Trump administration. The Migration Policy Institute cataloged more than 400 executive orders related to immigration (always aimed at reducing it) during the Trump presidency (Pierce and Bolter 2020). Following in the footsteps of prior administrations, the Trump administration went to new levels of what they felt appropriate in terms of deterrents.

The Trump administration's family separation policy was officially (but quietly and surreptitiously) enacted in the summer of 2017 in El Paso, Texas (Soboroff 2020; Schrag 2020). Through this policy, children arriving with family members were forcibly separated, taken into ORR custody, and shipped to destinations all over the U.S. with almost tracking in place of where people's children were going. Often no information was given about each other's whereabouts for weeks to months. Considering the El Paso trial was a success (there was a slight decrease in people arriving at the border that fall), the administration publicly rolled out the policy across the border in May 2018. Family separation was halted by the courts (and by a lukewarm executive order after immense amounts of public pressure) only six weeks after its commencement. Yet during that time, more than 2,800 children, some extremely young, had been separated from their parents. And the government continued to separate children even after ordered to stop doing so. As of December 2019, more than 5,000 children had been separated

from their parents since the start of the El Paso trial, with 2,246 younger than 10 years old, and 300 of those under the age of 5 (Habbach, Hampton, and Mishori 2020). In addition to ordering the policy stopped, the courts mandated the government immediately and swiftly reunify families. However, given that they had not kept track of where children had gone and had deported many of the parents during the periods of separation, reunification was slow and complicated, and as of the fall of 2020, it became apparent that more than 500 children were *still* separated from their parents because their parents could not be found (Ainsley and Soboroff 2020; Peeler 2020). The Biden Administration recently created a Family Reunification Task Force, and the first families are to be reunited soon (Biden 2021). It has become clear from their work that even more families were separated than originally known (USDHS 2021).

During the COVID-19 pandemic, the federal government put this policy into place again. Citing court rulings that stated that children had to be released from family detention for the sake of their health during the pandemic (without parallel rulings for the adults), the government told arriving families they had a “choice”: stay in detention indefinitely (which directly violates the long-standing Flores Settlement Agreement’s stipulations regarding detention length for children) or separate from their children – i.e. give up custody of their young children to U.S. federal custody while they get deported. This choice was neither legal nor necessary: indefinite detention of immigrants for the civil offense of coming into the country “illegally” is not mandated, and ICE has the discretionary ability to release anyone at any time and thus did not *have to* break up families (Amnesty 2020).

The most important aspect of the family separation policies was their pre-planned and purposefully hurtful nature. Numerous reports have come out since the policies were enacted

showing that high level officials (including President Trump) wanted to punish those who had already arrived and maximize their suffering both as a means of punishment (for the audacity of asserting their right to seek asylum under international and U.S. law) and to ‘spread the word’ of family separation to deter future families from immigrating (Shear 2020; Shear, Benner, and Schmidt 2020).

Family as target

“She asked the official why her daughter was being taken away from her. The official reportedly responded that [her daughter] was going to be adopted by an American family and that [she] would be deported and that she would never see her daughter again.”

PHR psychologist describing a mother from El Salvador
(Habbach, Hampton, and Mishori 2020)

When discussing the study of tactical engagements, Peter Pels writes “Anthropologists of colonialism seem to have taken the military struggle for granted as a material event, forgetting that even a single blow requires cultural preparations” (Pels 1997, 171). I argue that the family separation policy (and other prevention through deterrence policies before and after it) was also informed by “cultural preparation.”

Presently, family is at the center of social and economic life in Central America. A great emphasis is placed on supporting one’s family both as a child and as an adult as evidenced by the fact children that must go to work instead of school (like Gloria) when economic survival of the family outweighs the ability to pay school fees and as evidenced by the number of family members who travel north in search of work in the U.S. in order to send home remittances (Noe-Bustamante 2020). This fact is further complicated when considering children’s rights

(internationally and domestically) not to be forced into labor. Scheper-Hughes and Sargent remark that much of the social value of children in a family in countries around the world, including those in Central America, comes from a child's ability to contribute to a family economically. They state "in gaining their 'rights' in the form of protection from family work, apprenticeship, and wage labor, modern children may have gained their childhoods but lost considerable power and status" (Scheper-Hughes and Sargent 1998, 11). Often conflated are child work in a family/community and child labor in the larger global economy, but in conflating the two, one contorts the former as a rights violation without understanding how part of a child's value as a member of a family is lost.

Beginning in 2014, the demographic of Central Americans immigrating to the U.S. changed from largely young, single (meaning arriving alone) men looking for work to families (either two parents with children or a solitary parent with children). The change occurred in the context of increasing violence and gang activity in Central America leading immigrants to seek safety more so than solely economic opportunity. In the 2020 report by Physicians for Human Rights assessing families who had been separated at the border, all cited their reason for coming to the U.S. as seeking safety for their family (Habbach, Hampton, and Mishori 2020). With all of this well-known to those in charge of immigration policy, the administration targeted the family as a way at getting to the individual.

Mental health disorders or mental health disordered?

What have been the results of these traumas? Depression, anxiety, and PTSD in adults and children, stemming not only from the trauma incurred in their home countries but

compounded – seriously so – by the traumas inflicted upon them by the U.S. government. Both Physicians for Human Rights and the American Academy of Pediatrics have concluded that the family separation program constituted torture as officially defined by the United Nations: it caused severe physical and mental suffering, was done intentionally, for the purposes of punishment and coercion for a discriminatory reason, by a state official (Habbach, Hampton, and Mishori 2020; Oberg et al 2021). My evaluation of Gloria revealed symptoms of many of these diagnoses, and unofficially as I heard about Daniel’s behavior since they were reunified and watched him in the room, it was clear that he was having issues as well.

But are those diagnoses accurate? Do they make sense to employ and foist upon their recipients as labels and descriptors? If we consider the subjectivity of these asylum-seekers when seeking to consider their “mental health disorders” as experienced by them, should we not consider “attention to hierarchy, violence, and subtle modes of internalized anxieties [linking] subjection and subjectivity, and an urgent sense of the importance of linking national and global economic and political processes to the most intimate forms of [their] everyday experience?” Is not “the political at the heart of the psychological,” concepts as examined by Good, DelVecchio Good, Hyde and Pinto (Good et al 2008, 2)? Additionally, how do we reconcile the mental health disorders resulting from the experiences they had in their home countries with those experienced during transit, at the border, and then when detained and/or separated from their family members? As Good, et al posit when reflecting on work by Aretxaga, they use the term “postcolonialism” “to indicate an era and a historical legacy of violence and appropriation, carried into the present as traumatic memory, inherited institutional structures, and often unexamined assumptions...Postcolonialism denotes relationships between powerful political, economic, and state entities and those that are marginalized...” Lastly, these same thinkers note

that “when used with technical precision, clinical language has the potential to distinguish between normal human responses to loss or violence and those that represent more extreme or pathological ‘clinical’ responses, illuminating the role of individual pathology in coping with social conditions experienced by many” (Good et al 2008, 6-10).

As the psychologist who evaluated Gloria during her period of separation from Daniel discerned, Gloria’s issue at that time was not a mental health disorder but rather an extremely normal, albeit horrific, reaction to having her child essentially kidnapped. What Gloria needed was not medication or psychotherapy but rather her child. Her mental health was not unwell because of a mental health disorder but rather her mentation and the health of her spirit and soul had been disordered by outside events, shaped by a long and complicated web of historical and political processes. It is quite possible that Gloria also suffered/suffers from mental health pathology either due to organic predisposition and/or secondary to the constant stress of living in fear of losing her and her loved one’s lives in Honduras. But to understand how exactly Gloria’s mental health is disordered, one must consider the context in which it became disordered.

While the diagnoses of PTSD, anxiety, depression and others may not help or be appropriate to Gloria’s actual health, they do serve a secondary and important purpose. In labeling Gloria as such, her attorneys were able to overturn her negative CFI, “proving,” that she was not in a well mental state during her CFI and should be granted a re-do. The unpacking of this, however, requires one to think about the fact that the reason much of this suffering occurs, causing these symptoms, leading one to seek asylum, and then making such diagnoses useful in one’s asylum claim is all predicated on the after-effects of colonialism, globalization, domination, and xenophobia. What’s more, this characterizing a relief-seeking person by her diagnoses serves to portray her as what Ticktin describes as “the morally legitimate suffering

body...the primary subject of care for those on the margins of nation-states, the central figure of a politics grounded in the moral imperative” (Ticktin 2011, 11). Rather than try to access a person’s right to seek asylum based solely on the fundamentals of their claim for asylum, there enters a moral dimension that is more easily accessed if one’s suffering is visible, if one is viewed as sick. This is true in the case of trying to overturn parents’ negative CFIs in the context of family separation, and it is described again and again in child immigration proceedings. One “has a better case” if there is obvious evidence (meaning disability, scars, sickness) of the horror from which one is fleeing and seeking relief (Luiselli 2017; Terrio 2015).

How also should one think about the mental health of the family as a collective? Or rather the health of the relationships between family members? Parents have described fractured relationships with their children since being reunited, with children’s reaction to reunification ranging from anger at their parents “letting them be taken away” to clinginess and fear that they might be torn apart again. Children are unable to concentrate in school, adults cannot concentrate at work. Some of the more than 500 parents who were deported after being separated from their children and cannot be located are purposefully not answering calls from advocacy groups trying to reach them. While they desperately want to be reunited, they do not want to bring their children back to the dangerous conditions they just finished extracting them from (Dickerson 2020). The ramifications are myriad.

Pure cruelty

Rights violations, are, rather, symptoms of deeper pathologies of power and are linked intimately to the social conditions that so often determine who will suffer abuse and who will be shielded from harm.

- Paul Farmer (Farmer 2003, 7)

In their introductory essay as guest editors of an *American Anthropologist* issue focused on children, Myra Bluebond-Langner and Jill Korbin, discuss the United Nations Convention on the Rights of the Child (UNCRC) (Bluebond-Langner and Korbin 2007). The UNCRC, written in 1989, outline multiple rights afforded to children and builds upon multiple other international human rights declarations and standards (UNHR n.d.). It has been ratified by every country in the world except for the United States. As stated by Bluebond-Langner and Korbin, “the convention includes three interlocking principles: *protection*, *provision*, and *participation*.” They go on to state that “*protection* of children from harm and *provision* of needed resources, have resonated with international agencies and children’s rights groups, and are consistent with child protection efforts in the United States...*participation* has stimulated a research and policy agenda that includes children’s views and perspectives” (Bluebond-Langner and Korbin 2007, 241). I would argue that while the U.S. purports to be a protector of child rights, numerous examples of its treatment of children – American and otherwise – show otherwise. The family separation policy is particularly notable in that there was no pretense that children were being separated from their families to “protect” the children. Unlike Ramsay’s articulation of “benevolent cruelty” – the “paradox of protection in which the process of resettling” [children]

“as an ostensibly benevolent means of providing refuge to them, is conditioned on their conforming to neoliberal normativities” (which is more so what we see in the care of children in ORR custody), the family separation program was cruelty for cruelty’s sake alone.

CHAPTER 5

CONCLUSION

The plight of children at our southern border – resulting from U.S. political interventions in Central American countries leading to the rise of gang activity and mass exoduses of families, resulting from U.S. immigration policies such as MPP, Title 42, and family separation, resulting from flagrant disregard for the Flores Settlement Agreement, and above all, resulting from the U.S. government’s devaluing of the lives of immigrant children – has been often referred to as a “humanitarian crisis.” Didier Fassin critiques “humanitarian reason” of “humanitarian governments” because such governments “bring threatened and forgotten lives into existence by protecting them and revealing them,” but in doing so keeps “the exchange profoundly unequal” as “those at the receiving end of humanitarian attention know quite well that they are expected to show the humility of the beholden rather than express demands for rights” (Fassin 2012, 3-4). While aspects of that political mentality that Fassin describes are true and recognizable in U.S. immigration policy, the crux of what Fassin gets wrong is in his definition of humanitarianism.

Humanitarianism, at its core, is acting with a concern for the social suffering of others. Without that as one’s fundamental philosophy, one cannot be said to be acting with any degree of “humanitarian reason[ing].” As stated by Wilkinson and Kleinman in their critique of Fassin, “...social understanding is the ground for changing social conditions and for improving social existence, and therefore it is not sufficient in itself unless it leads to human action on the behalf of our fellow human beings” (Wilkinson and Kleinman 2016, 158). The U.S. government may indeed bring the threatened and forgotten lives of relief-seeking children into existence, but not because we are truly protecting them, but rather because we have created the circumstances by

which they need to seek relief in the first place. We are not the humanitarians here. The “state,” however, is comprised of multiple agencies with thousands of employees, and many of those caretakers are acting “on the behalf of their fellow human beings,” trying to care for children in a system utterly at odds with those efforts.

Perhaps the most grotesque aspect of this lack of expressed social value of immigrant children is that the suffering children experience at the hands of the U.S. government – both physical and emotional – does not “count” towards their claim for asylum or other relief. The government acts with impunity, knowing that its actions are harmful but without consequences to them, all in pursuit of an agenda to deter immigrants from coming and thriving here. This fact is what makes Physicians for Human Rights’ and the American Academy of Pediatrics’ public claims of torture so powerful. In doing so, they have called for government accountability, truth and reconciliation, reparations to those harmed by family separation and related policies.

In all of these observations, we must distinguish the disease(s) that immigrant children have developed as a result of U.S. immigration policies – the “alteration in biological structure or functioning” (malnutrition, anxiety, PTSD, poorly controlled chronic diseases) – from their illnesses (Kleinman 1988, 4). Broadly speaking, the illnesses – “the innately human experience of symptoms and suffering...how they [and their caregivers] perceive, live with, and respond to [these] symptoms and disability” and “the patient’s judgments about how best to cope with the distress and practical problems in daily living [the illnesses] create” are the harder experience to understand and process, but at the heart of where the answers to policy change lie (Kleinman 1988, 3-4). If we are to begin to understand *why* U.S. immigration policy hurts children and *how*

it hurts children, our understanding must include the biomedical – the disease – *and* the biopsychosocial, or rather, the biopsychosociopolitical – the illness. Inherent in the latter is a requirement of seeing, valuing, and hearing all children: they are the patients whose judgments we seek to understand and support.

Afterword

Linda Tuhiwai Smith talks about research of Indigenous peoples as “things already known, suggest[ing] things that [will] not work, and [making] careers for people who already [have] jobs” (Tuhiwai Smith 1999). Tuhiwai Smith when considering decolonizing methodologies (the former as both verb and adjective) also speaks of the creation of “spaces of resistance and hope” from the spaces of marginalization where Indigenous persons have found themselves, these new spaces allowing for “framework[s] of self-determination, decolonization, and social justice.” What does it mean for a non-Indigenous, non-marginalized, academic to do research “standing with” (in the words of Kim Tallbear) marginalized communities, to “revise her stake in the knowledge being produced?” (Tallbear 2014). I cannot truly ever occupy that space of resistance and hope since I do not come from its original space of marginalization. And my research and work in the world of asylum-seekers absolutely advances my career, despite “already having a job.” There is a thin but important line, however, that I aspire to walk, that requires constant self-reflection, honest assessment of my motives and benefits, and continual external evaluation by those whose lives are affected by that line, the line of research as justice, namely advocacy-driven research as justice.

In his talk turned essay “Considering Indigenous Research Methodologies [IRMs]: Critical Reflections by an Indigenous Knower,” Joseph Gone discusses his misgivings about IRMS (Gone 2019). He states “emphasizing this kind of academically grounded knowledge instead of the knowledge that exists in everyday life might not be useful academically, but...is really important for the survival of some of what we do.” In other words, an epistemology - or way of knowing - is important for a variety of reasons, and it is always generative, but it may not

be generative of questions needing to be researched but rather questions important to answer right then and there, to an individual person, a person who needs an answer to a question and will only accept the answer if generated in that manner. There can be many ways of knowing and many ways of answering questions, but not all must be research or be researched. In that same vein, I would argue that just as there are many types of epistemologies, so too are there many types of knowledge – some are useful for immediate consumption (as in the answers given to its inheritants by The Braided Tail as described by Gone), others are useful in the academic sense of generating and understanding larger ideas, concepts, and contextualized theories, and yet other knowledge (some of which crosses with the academic) leads directly to improvements in human health (the development of antibiotics) and finally, the human condition in general (advocacy-driven research).

The final type of research attempts to document “things that are known” (in Tuhiwai Smith’s words), but these things are different than the “things that are known” of Indigenous peoples’ worlds. These are things (unpleasant, unfair, harmful, negative) that are only known to those who are experiencing them, those who have caused them to occur, and those who *suspect* they are happening. This is more than the stuff of investigative journalism or court trials (both of which also generate important knowledge with practical implications). Because in addition to the documenting of the thing itself (the “research” or the “investigation”), there is the larger understanding of the generation of that thing (whether as the result of colonialism and postcolonial disorders vs. something else entirely), the context of that thing, the ramifications that all of that together has for the person or persons who are the subject of study, and finally the research-based conclusions about what to *do* with this knowledge. This is where I see the intersection and value of academically-informed advocacy-driven research. While it seems more

appropriate (or perhaps more “rigorous” or “valid”) to say research-driven (or evidence-based) advocacy, I think that would negate the justice component of this type of research. In my opinion, if the advocacy does not inform the research, there will not be sufficient thought given to why the answers to those questions matter: they should matter as a means of providing justice to a group who deserves justice. One may argue that there is the risk of advocacy-driven research being used to advocate for policies and positions that further marginalize already marginalized populations and to provide “proof” that those positions should be pursued, but as with all things that are used for ill-intents, I would argue that this is a skewing of the word “advocacy.”

Advocacy-driven research takes up a question related to how a group has been persecuted and marginalized (or how they are currently being persecuted and marginalized) as informed by the persons themselves, then seeks to answer the why and how of that question through investigation and inform the findings through academic understanding of history, anthropology and other social sciences leading to practical and real justice-oriented actions as desired by the group under study. Whether or not I am doing that remains to be seen, but that is where and how I hope to stand with peoples who have been oppressed.

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